

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL CASE NO. 1:05cr233-2**

**UNITED STATES OF AMERICA, )**

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**)**

**vs. )**

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**)**

**AMBER LENE KELLY )**

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**)**

**ORDER**

**THIS MATTER** is before the Court on the Defendant's letter of December 13, 2012 which the Clerk of Court filed as a motion to reduce sentence [Doc. 101] and the Defendant's Motion to Expedite as to Motion to Reduce Sentence [Doc. 102].

On August 1, 2005, the Defendant was charged in a four count Bill of Indictment with possession of methamphetamine, conspiracy to possess with intent to distribute methamphetamine, and two counts of using firearms during a drug trafficking crime, in violation of 21 U.S.C. §§841 & 846 and 18 U.S.C. §924(c). [Doc. 1]. She entered into a plea agreement pursuant to which she pled guilty to Counts One and Three in return for the dismissal of Counts Two and Four. [Doc. 85]. On February 12, 2007, she was sentenced to serve 63 months imprisonment in connection with the

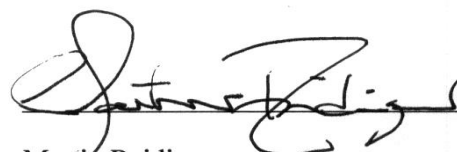
drug possession count and a mandatory consecutive sentence of 60 months in connection with the firearms conviction. [Doc. 95]. She did not file a direct appeal or a motion pursuant to 28 U.S.C. §2255.

The Defendant's letter appears to be based on United States v. Simmons, 649 F.3d 237 (4<sup>th</sup> Cir. 2011). Her conviction and sentence, however, were based on the drug quantities attributed to her and the mandatory consecutive sentence of 60 months for using a firearm during a drug trafficking crime. The Court also notes that she received a downward departure at sentencing. No relief is available.

**IT IS, THEREFORE, ORDERED** that the Defendant's letter of December 13, 2012 which the Clerk of Court filed as a motion to reduce sentence [Doc. 101] is hereby **DENIED**.

**IT IS FURTHER ORDERED** that the Defendant's Motion to Expedite as to Motion to Reduce Sentence [Doc. 102] is hereby **DENIED** as moot.

Signed: May 22, 2013

  
Martin Reidinger  
United States District Judge

